

REMARKS

I. Status of the Claims

Claims 31-65 and 83-92 are pending in this application. Claims 1-30 and 66-82 have been cancelled. Claims 31, 37, 43, 48, 54, and 60 are in independent form. All of the independent claims have been amended to recite an image processor with preview functionality to permit the user to interactively peruse the processed image. This is supported in the specification at page 12, lines 1-5, and elsewhere, as described below. Dependent claims 83 through 87 have been amended to recite that the confectionery products are serially transported past a printhead, to further distinguish the printing subsystem from what is taught in the prior art.

II. Rejections Over Prior Art

All of the pending claims have been rejected over U.S. Patent No. 6,230,073 (hereinafter “Kofman”) in view of U.S. Patent No. 6, 538,767 (hereinafter “Over”), which is the sole grounds of rejection.

III. Summary of the Claimed Subject Matter

An important aspect of the present invention is that it involves the consumer’s participation in the decoration of sugar shell candy (such as M&M’S® Milk Chocolate and Peanut Chocolate Candies) or jellybeans. Conventionally, consumers have not participated in the design and manufacture of such products.

The consumer’s involvement in the design of customized confectionery is emphasized throughout the originally filed specification and in the present claims. Thus, the Summary of the Invention states: “[t]he input of the consumer is a key component of the customizable process.” (Page 5, lines 24-25).

In the Description of the Preferred Embodiments, the invention is said to permit “a consumer to dictate the steps of digital information selection and image processing.” (Page 9, lines 9-10, emphasis added). “The consumers involvement in the preparation of an individualized edible is a key component of these embodiments of the invention “ (Page 9, lines 18-20).

Moreover, to permit the consumer’s involvement in the design, “digital information must be in communication with the image processor.” (Page 10, lines 10-11). And in the preferred embodiments, “the interface with the consumer allows the consumer to interactively peruse options for decoration of edibles, and more preferably to preview what the final product will look like.” (Page 12, lines 1-5). The processing of the image by the consumer “may be accomplished while the consumer is on-line, and under the interactive, real time supervision of the consumer.” (Page 15, lines 7-9).

In summary, an image processor, and the consumer’s interaction with the image processor to process and preview the image, are key features of the invention. Each of the independent claims has been amended to recite an image processor with preview functionality or a step of processing the image to permit previewing.

IV. Argument

The references, taken together or separately, do not teach a consumer-interactive process, in which an image is processed, previewed by a consumer at a remote location from the printer, and thereafter printed directly onto the surface of a sugar shell candy or jellybean.

The Office Action correctly states that Kofman does not disclose a network. More generally, Kofman is directed to an operation where image processing is

done on-site, such that the end result is simply “a method of automatically operating a production line for preparing a food item” (col. 3, lines 44-45). The image processing depicted in Figure 2 is not previewed by a consumer at a remote location, because the object of the invention is not a consumer-interactive method, but an “automated production system capable of jet printing a pictorial representation directly onto a generally non-absorbent surface of a food item.” (col. 3, lines 25-27).

Over, similar to Kofman, is not a consumer-interactive system with an image processor that permits a consumer to manipulate an image with image processing functionality prior to printing, or the ability to preview the image after selecting the image for printing. The Examiner alleges that Over provides an example of a network for receiving image data from a first computer and printing on non-planar surfaces (see page 2 of the Office Action).

Primarily, Over concerns a system for applying graphics to a non-planar object, such as a golf ball. The printing system includes a fixture for receiving and holding an object having a non-planar surface, a graphics unit for receiving graphics data and applying graphics to the surface, and a control unit for moving the graphics unit with respect to the surface (see, for example, Claim 1). The disclosure of a network in Over is incidental, and the disclosure of customer interaction with the system is limited to the following: “customers of the objects may enter or select the graphics that should be applied to their objects.” This, of course, does not imply that the customer has the ability to process the image or preview what the decorated object will look like. To the contrary the gist of the disclosure suggests that the image processing is done at the manufacturing facility.

For the foregoing reasons, the combination of Kofman and Over does not render obvious the claimed invention, whereby a consumer is able to interactively design graphics on sugar shell candies or jellybeans, and it is respectfully submitted that the present claims should be allowed.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should be directed to our address given below.

Respectfully submitted,

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